

MAY 12 2008

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

BRUCE E. DUNBAR,

Defendant - Appellant.

No. 07-30235

D.C. No. CR-00-00045-01-RSL

MEMORANDUM^{*}

Appeal from the United States District Court
for the Western District of Washington
Robert S. Lasnik, District Judge, Presiding

Submitted May 8, 2008^{**}
Seattle, Washington

Before: GRABER and RAWLINSON, Circuit Judges, and WRIGHT,^{***}
District Judge.

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. Fed. R. App. P. 34(a)(2).

^{***} The Honorable Otis D. Wright II, United States District Court for the Central District of California, sitting by designation.

Defendant Bruce Dunbar appeals the district court's revocation of his supervised release and the procedure for selecting the sentence imposed upon revocation.¹

1. The district court did not err when it denied Defendant's motion to suppress the evidence seized in the search of Defendant's residence. On de novo review, United States v. Crawford, 372 F.3d 1048, 1053 (9th Cir. 2004) (en banc), we find no error. Assuming without deciding that the probation officers used excessive force, discovery of the evidence was not "causally related to the manner of executing the search," United States v. Ankeny, 502 F.3d 829, 837 (9th Cir. 2007), petition for cert. filed, __ U.S.L.W. __ (U.S. Dec. 4, 2007) (No. 07-8121), so suppression is not warranted, id. at 838.

2. We review the procedural sentencing issue for plain error, because Defendant did not object to the adequacy of the district court's reasons. United States v. Miquel, 444 F.3d 1173, 1176 (9th Cir. 2006). The district court provided sufficient reasons for the sentence. See United States v. Carty, No. 05-10200, 2008 WL 763770, at *5 (9th Cir. Mar. 24, 2008) (en banc) (holding that a district court need not enumerate every possible statutory factor to show that the court has

¹ Defendant attempts to raise an additional issue in the reply brief, but his failure to raise it in the opening brief constitutes waiver. Sanchez v. Pac. Powder Co., 147 F.3d 1097, 1100 (9th Cir. 1998).

considered all factors). The court's reasons were implicit in the colloquy that the court conducted: Defendant refused to accept responsibility for his violations of supervised release but instead blamed others, Defendant classified himself as unsupervisable, and Defendant stated an intention to reoffend upon release from prison. See United States v. Vences, 169 F.3d 611, 613 (9th Cir. 1999) (holding that there was no plain error when the district court's reasons for a sentence were implicit in the colloquy with defense counsel, notwithstanding failure to comply with technical requirements of 18 U.S.C. § 3553).

AFFIRMED.